

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOLISA PARHAM,

Plaintiff,

vs.

Case No. _____

NATIONWIDE PROPERTY & CASUALTY
INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

Defendant, Nationwide Property & Casualty Insurance Company (“Nationwide”), hereby removes this action from the Second Judicial District Court, Bernalillo County, New Mexico, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. As grounds for the relief requested herein, Nationwide states as follows:

I. PARTIES AND PROCEDURAL HISTORY

1. Plaintiff initiated this action on July 19, 2017, by filing her Complaint for Underinsured Motorist Benefits and Punitive Damages (“Complaint”) in the State of New Mexico’s Second Judicial District Court. *See* Complaint, attached hereto as **Exhibit A**.

2. The Complaint names as the sole Defendant in this action “Nationwide Property & Casualty Insurance Company.” *Id.*

3. Nationwide issued the insurance policy at issue in the above-captioned lawsuit. Nationwide is incorporated in Ohio, and has its principal place of business in Ohio. *See* Attorney Affidavit, attached hereto as **Exhibit B**, including its attachment B.1. (Nationwide Property & Casualty Insurance Company’s listing with the New Mexico Superintendent of Insurance).

4. As of the date of Nationwide’s Notice of Removal, a Summons had been issued, and an Acceptance of Service has been provided by the State of New Mexico Office of the

Superintendent of Insurance showing service was received on September 13, 2017. *See* Exhibit B.2 to **Exhibit B**.

5. The Complaint alleges at paragraph 1 that Plaintiff is a resident of Virginia. *See* Exhibit A, ¶ 1.

6. The Complaint alleges that Plaintiff “incurred over \$15,000 in medical expenses for treatment of injuries arising from the collision and she suffered lost income.” *Id.* at ¶ 10. She also alleges that “[the other driver’s] operation of his motorcycle at an excessive, unsafe speed was willful, wanton and reckless giving rise to punitive damages.” *Id.* at ¶ 15. Plaintiff claims underinsured motorist coverage in the amount of \$150,000.00. **Exhibit B**, at ¶ 5. Accordingly, the amount in controversy exceeds \$75,000.00.

II. GROUNDS FOR REMOVAL

7. A defendant may remove any civil action brought in a state court for which the District Courts of the United States have original jurisdiction to the federal district court encompassing the place in which the action is pending. 28 U.S.C. § 1441(a). Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over this case by reason of diversity of citizenship, because Plaintiff and Defendant are residents of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

III. NATIONWIDE’S NOTICE OF REMOVAL IS TIMELY

8. 28 U.S.C. § 1446(b)(1) provides that the “notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” Nationwide was served with the Complaint on

September 13, 2017, through the New Mexico Office of the Superintendent of Insurance. This Notice is timely if filed on or before October 13, 2017. *See Exhibit B.*, including its attachment B.2. (Acceptance of Service).

IV. DEPOSITORS HAS COMPLIED WITH ALL REMOVAL PROCEDURES

9. Nationwide has complied with the procedural requirements for removal set forth in 28 U.S.C. § 1446. As noted above, in accordance with 28 U.S.C. § 1446(b), the notice of removal was timely filed within 30 days after Nationwide's receipt of the "initial pleading setting forth the claim for relief upon which [Plaintiff's action against it] is based."

10. The United States District Court, District of New Mexico, encompasses the Second Judicial District Court, Bernalillo County, New Mexico, the county in which the state-court action is now pending, and thus is the proper venue to which to remove this action pursuant to 28 U.S.C. § 1441(a).

11. Plaintiff's Complaint names only one party Defendant, for which reason no further service of process is anticipated. *See Exhibit A.*

12. Pursuant to 28 U.S.C. § 1446(d), promptly upon filing this Notice of Removal, Nationwide will provide written notice of this Notice of Removal to Plaintiff and file a copy of this Notice with the Clerk of the Circuit Court of the Second Judicial District Court, Bernalillo County, New Mexico.

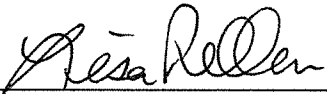
13. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

14. Pursuant to D. N.M. LR-CIV 81-1(a), Nationwide will submit copies of the records and proceedings from the state-court action, within twenty-eight (28) days of the filing of this Notice of Removal.

WHEREFORE, Nationwide Property & Casualty Insurance Company hereby removes the instant action from the Second Judicial District Court, Bernalillo County, New Mexico to the United States District Court for the District of New Mexico, and respectfully requests that the Court exercise jurisdiction over this action.

Respectfully submitted,

CIVEROLO, GRALOW & HILL, P.A.

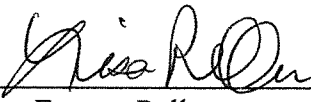
By 

Lisa Entress Pullen
David M. Wesner
*Attorneys for Defendant Nationwide
Property & Casualty Insurance Company*
P.O. Drawer 887
Albuquerque, NM 87103-0887
(505) 842-8255
pullenl@civerolo.com
wesnerd@civerolo.com

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2017, a true copy of the foregoing *Notice of Removal* was delivered via the CM/ECF filing system on October 13, 2017 to all counsel of record:

Richard Suttan, Esq.
Attorneys for Plaintiff Jolisa Parham
Whitener Law Firm, P.A.
4110 Cutler Ave., NE
Albuquerque, New Mexico 87110
(505) 242-3333
Richard@WhitenerLaw.com



Lisa Entress Pullen